

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CHARLES WESTERBY

§

VS.

§

CIVIL ACTION NO. 1:13cv316

GREG ABBOTT, ET AL.

§

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Charles Westerby, an inmate confined within the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled civil rights lawsuit against Greg Abbott, K. Creckul and Warden White.

The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends the lawsuit be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the court is of the opinion plaintiff's objections are without merit. While plaintiff states he is asserting a life endangerment claim, his complaint appears to state he has been improperly denied release on parole. Plaintiff has failed to set forth specific facts demonstrating he was in imminent danger of serious physical injury on the date he filed his lawsuit. Plaintiff has therefore failed to overcome the bar imposed by Section 1915(g).

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and

conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** as the opinion of the court. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

SIGNED this the **29** day of **July, 2014**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge